

100

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 JANE ZACK SIMON  
Deputy Attorney General [SBN 116564]  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102  
5 Telephone: (415) 703-5544  
Fax: (415) 703-5408  
6

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 **In the Matter of the Accusation Against:**

**Case No.: 16-2008-193908**

14 **CLEMENT KA-CHUN YEUNG, M.D.**

**STIPULATED SURRENDER OF  
LICENSE**

15 Physician's and Surgeon's Certificate  
16 No. G43350

17 Respondent

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 1. Barbara Johnston (Complainant) is the Executive Director of the Medical  
22 Board of California, and maintains this action solely in her official capacity. Complainant is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Jane Zack Simon, Deputy Attorney General.

25 2. Clement Ka-Chun Yeung, M.D. (Respondent) is representing himself in  
26 this proceeding. Respondent's current mailing address is 1842 Laukahi Street, Honolulu, HI  
27 96821-1361.

28 ///

1                   3.       Respondent has received, read and understands the Accusation which is  
2 presently on file and pending in case number 16-2008-193908 (the "Accusation") a copy of  
3 which is attached as Exhibit A.

4                   4.       Respondent has carefully read and understands the charges and allegations  
5 in Accusation No. 16-2008-193908. Respondent also has carefully read and understands the  
6 effects of this Stipulated Surrender of License.

7                   5.       Respondent is fully aware of his legal rights in this matter, including the  
8 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
9 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;  
10 the right to present evidence and to testify on his own behalf; the right to the issuance of  
11 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
12 reconsideration and court review of an adverse decision; and all other rights accorded by the  
13 California Administrative Procedure Act and other applicable laws.

14                  6.       Respondent voluntarily, knowingly, and intelligently waives and gives up  
15 each and every right set forth above.

16                  7.       Respondent agrees that the allegations of the Accusation constitute to  
17 discipline his California physician's and surgeon's certificate pursuant to Business and  
18 Professions Code sections 141 and 2305. Respondent wishes to surrender his California license at  
19 this time.

20                  8.       Pursuant to section 2224(b) of the Business and Professions Code, this  
21 Stipulation for Surrender of License shall be subject to the approval of the Board. Respondent  
22 understands and agrees that the Medical Board's staff and counsel for complainant may  
23 communicate directly with the Board regarding this stipulation and settlement, without notice to  
24 or participation by Respondent. By signing this stipulation, Respondent understands and agrees  
25 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the  
26 Board considers and acts upon it. In the event that this stipulation is rejected for any reason by  
27 the Board, it will be of no force or effect for either party. The Board will not be disqualified  
28 from further action in this matter by virtue of its consideration of this stipulation.

1                   9.       Upon acceptance of this stipulation by the Board, Respondent understands  
2 that he will no longer be permitted to practice as a physician and surgeon in California, and also  
3 agrees to surrender and cause to be delivered to the Board any license and wallet certificate in his  
4 possession before the effective date of the decision.

5                   10.      The admissions made by Respondent herein are only for the purposes of  
6 this proceeding, or any other proceedings in which the Medical Board or other professional  
7 licensing agency is involved, and shall not be admissible in any other criminal or civil  
8 proceeding.

9                   11.      Respondent fully understands and agrees that if he ever files an application  
10 for relicensure or reinstatement in the State of California, the Board shall treat it as a petition for  
11 reinstatement, and Respondent must comply with all laws, regulations and procedures for  
12 reinstatement of a revoked license in effect at the time the petition is filed.

13                  12.      Respondent understands that he may not petition for reinstatement as a  
14 physician and surgeon for a period of three (3) years from the effective date of his surrender.  
15 Information gathered in connection with Accusation number 16-2008-193908 may be considered  
16 by the Board in determining whether or not to grant the petition for reinstatement. For the  
17 purposes of the reinstatement hearing, the allegations contained in Accusation number 16-2008-  
18 193908 shall be deemed to be admitted by Respondent, and Respondent waives any and all  
19 defenses based on a claim of laches or the statute of limitations.

20                  13.      The parties understand and agree that facsimile or electronic copies of this  
21 Stipulated Surrender of License, including facsimile or electronic signatures thereto, shall have  
22 the same force and effect as the originals.

### 23                                   ACCEPTANCE

24                   I have carefully read the above Stipulation. I enter into it freely and voluntarily  
25 and with full knowledge of its force and effect, do hereby surrender my Physician and Surgeon's  
26 Certificate Number G43350 to the Medical Board of California, for its formal acceptance. By  
27 signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the  
28 Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of

1 California and I also will cause to be delivered to the Board any license and wallet certificate in  
2 my possession before the effective date of the decision.

3 DATED: October 26, 2009.

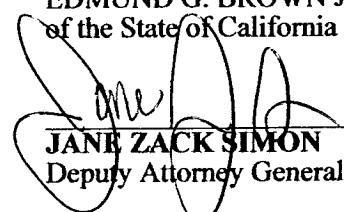
4  
5   
6 **CLEMENT KA-CHUN YEUNG, M.D.**  
7 Respondent

8 **ENDORSEMENT**

9 The foregoing Stipulated Surrender of License is hereby respectfully submitted for  
10 consideration by the Medical Board of California.

11 DATED: 10/26/09.

12  
13 EDMUND G. BROWN JR., Attorney General  
14 of the State of California

15   
16 **JANE ZACK SIMON**  
17 Deputy Attorney General  
18 Attorneys for Complainant  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# **Exhibit A**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
JOSE R. GUERRERO  
Supervising Deputy Attorney General  
JANE ZACK SIMON  
Deputy Attorney General [SBN 116564]  
455 Golden Gate Avenue, Suite 11000  
San Francisco, California 94102  
Telephone: (415) 703-5544  
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 16-2008-193908

**CLEMENT KA-CHUN YEUNG, M.D.**  
205 South Vineyard Street, #203-205  
Honolulu, HI 96813

**ACCUSATION**

Physician's and Surgeon's  
Certificate No. G43350

Respondent

The Complainant alleges:

**PARTIES**

1. Complainant Barbara Johnston is the Executive Director of the Medical Board of California and brings this accusation solely in her official capacity.
2. On or about September 15, 1980, Physician's and Surgeon's Certificate No. G43350 was issued by the Medical Board of California to Clement Ka-Chun Yeung, M.D. (hereinafter "respondent".) The certificate expired on March 31, 2008, and is in SUSPENDED status by virtue of an order issued on January 8, 2008 pursuant to Business and Professions Code

## JURISDICTION

3. This Accusation is brought before the Medical Board of California<sup>1</sup>, Department of Consumer Affairs (hereinafter the "Board") under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides

///

---

1. As used herein, the term "Board" means the Medical Board of California. As used herein, "Division of Medical Quality" shall also be deemed to refer to the Board.

1 for discipline based upon a disciplinary action taken against the licensee by another state,  
2 an agency of the federal government, or another country."

3 D. Section 2236 of the Code provides that the conviction of any offense  
4 substantially related to the qualifications, functions, or duties of a physician and  
5 surgeon constitutes unprofessional conduct.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Discipline, Restriction, or Limitation Imposed by Another State)

8 4. On or about June 3, 2008, the State of Hawaii Board of Medical  
9 Examiners issued a Settlement Agreement Prior to Filing of Petition for Disciplinary Action and  
10 Board's Final Order regarding respondent's license to practice medicine in Hawaii. The Hawaii  
11 Board made findings that on March 29, 2006, respondent was indicted for alleged violations of  
12 21 U.S.C. §841 (the Federal Controlled Substances Act.) In February, 2007, respondent agreed  
13 to plead guilty to violating federal law on two occasions by prescribing controlled substances  
14 "outside the course of professional medical practice and not for a legitimate medical purpose."  
15 On August 30, 2007, respondent was adjudicated guilty pursuant to his plea, and was sentenced  
16 to 366 days in the Federal Detention Center in Honolulu, Hawaii. Immediately upon conclusion  
17 of his sentence, respondent was to be deported, as he is not a citizen of the United States. Based  
18 on these findings, respondent agreed to the revocation of his Hawaii medical license, effective  
19 January 31, 2008.

20 Attached hereto as Exhibit A is a true and correct copy of the Settlement  
21 Agreement Prior to Filing of Petition for Disciplinary Action and Board's Final Order issued by  
22 the Hawaii Board of Medical Examiners.

23 5. Respondent's conduct and the action of the Hawaii Board of Medical  
24 Examiners as set forth in paragraph 4, above, constitute unprofessional conduct within the  
25 meaning of section 2305 and is conduct subject to discipline within the meaning of section  
26 141(a).

27 ///

1 ///

2 **SECOND CAUSE FOR DISCIPLINE**

3 (Conviction of Crime)

4 6. The allegations of the First Cause for Discipline are incorporated herein by  
5 reference.

6 7. The foregoing constitutes unprofessional conduct and the conviction of a  
7 crime substantially related to the qualifications, functions or duties of a physician and surgeon,  
8 and is cause for discipline pursuant to Business and Professions Code sections 2234 and/or 2236.

9 **PRAYER**

10 **WHEREFORE**, the complainant requests that a hearing be held on the matters  
11 herein alleged, and that following the hearing, the Board issue a decision:

12 1. Revoking or suspending Physician's and Surgeon's Certificate Number  
13 G43350 heretofore issued to respondent Clement Ka-Chun Yeung, M.D.;

14 2. Revoking, suspending or denying approval of the respondent's authority to  
15 supervise physician assistants;

16 3. Ordering respondent, if placed on probation, to pay the costs probation  
17 monitoring; and

18 4. Taking such other and further action as the Board deems necessary and  
19 proper.

20 DATED: May 5, 2009.

21

22

23

24

25

26

27

  
\_\_\_\_\_  
**BARBARA JOHNSTON**  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California

Complainant

## **Exhibit A**

JOHN T. HASSLER  
Regulated Industries Complaints Office  
Department of Commerce and Consumer  
Affairs  
State of Hawaii  
Leio papa A Kanehameha Building  
235 South Beretania Street, Suite 900  
Honolulu, Hawaii 96813  
Telephone: 586-2660

RECEIVED  
PROF & VCS TEL  
LICENSING DIVISION  
2008 JUN -3 P 2:50  
DEPT OF COMMERCE  
& CONSUMER AFFAIRS  
STATE OF HAWAII

DEPT OF COMMERCE  
& CONSUMER AFFAIRS  
2008 JUN -3 A 9:50

Attorney for Department of Commerce  
and Consumer Affairs

BOARD OF MEDICAL EXAMINERS  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
STATE OF HAWAII

In the Matter of the ) MED 2006-145-L  
Medical License of )  
)  
K.C. CLEMENT YEUNG, M.D., ) SETTLEMENT AGREEMENT  
) PRIOR TO FILING OF PETITION  
) FOR DISCIPLINARY ACTION AND  
Respondent. ) BOARD'S FINAL ORDER:  
) EXHIBITS "A" THROUGH "C"  
)

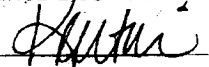
SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION  
FOR DISCIPLINARY ACTION AND BOARD'S FINAL ORDER

This matter was referred to the Regulated Industries Complaints Office for prosecution for alleged violation of Hawaii Revised Statutes ("HRS") Chapter 453. The parties, K.C. Clement Yeung, M.D. (hereinafter "Respondent") and the Department of Commerce and Consumer Affairs, by and through its Regulated Industries Complaints Office (hereinafter "RICO") enter into this Settlement Agreement as follows:

A. UNCONTESTED FACTS:

1. Respondent was first licensed as a physician by the State of Hawaii, license no. MD 3978, on August 18, 1980.
2. Respondent's medical license expired on January 31, 2008.

I HEREBY CERTIFY THAT THE ATTACHED  
IS A TRUE AND CORRECT COPY OF THE  
ORIGINAL ON FILE IN THE DEPARTMENT  
OF COMMERCE & CONSUMER AFFAIRS.



3. Respondent's mailing address is c/o Kelvin H. Kaneshiro, Esq., Reinwald O'Connor & Playdon, Pacific Guardian Center, Makai Tower, 733 Bishop Street, Floor 24, Honolulu, Hawaii 96813.

4. The State of Hawaii, Board of Medical Examiners ("the Board") has jurisdiction over this matter pursuant to HRS Chapters 91, 92, 436B and 453.

5. On March 29, 2006, Respondent was indicted for alleged violations of 21 United States Code ("USC") § 841 (the federal Controlled Substances Act), in *U.S. v. Yeung*, United States District Court for the District of Hawaii Criminal No. CR06-00179 HG ("the criminal matter").

6. A true and correct copy of the Indictment from the aforementioned action is attached as Exhibit "A."

7. In a February 23, 2007 Memorandum of Plea Agreement filed in the criminal matter, Respondent agreed to plead guilty to having violated federal law twice by prescribing controlled substances "outside the course of professional medical practice and not for a legitimate medical purpose."

8. A true and correct copy of the February 23, 2007 Memorandum of Plea Agreement is attached as Exhibit "B."

9. On August 30, 2007, Respondent was adjudicated guilty of counts 22 and 23 of the indictment pursuant to his guilty plea. The Judgment further reflected that the U.S. dismissed all other counts of the indictment.

10. A true and correct copy of the Judgment is attached as Exhibit "C."

11. Respondent is currently serving a sentence of 366 days in the Federal Detention Center in Honolulu, Hawaii and will be removed immediately upon conclusion of that sentence as Respondent is not a citizen of the United States.

12. The parties have chosen to enter into this Settlement Agreement to avoid the time and costs associated with a lengthy hearing before the Board, and to spare witnesses the stress of testifying at a hearing. The parties further agree that, by entering into the within Settlement Agreement and making the admissions contained herein, Respondent is taking responsibility for his actions.

B. REPRESENTATIONS BY RESPONDENT:

1. For purposes of this proceeding, Respondent is represented by Kelvin H. Kaneshiro, Esq., Reinward O'Conner & Playdon, Pacific Guardian Center, Makai Tower, 733 Bishop Street, Floor 24, Honolulu, Hawaii 96813.

2. Respondent has been informed of his right to have a hearing to determine the issues in this case.

3. Pursuant to HRS §91-9(d), Respondent voluntarily waives his right to a hearing and agrees to a disposition of this case in accordance with the terms and conditions of this Settlement Agreement.

4. Respondent enters into this Settlement Agreement of his own free will, and not because of any threat, or because of any promise which is not contained in this Settlement Agreement.

5. Respondent agrees that this Settlement Agreement is intended to resolve the issues raised in RICO's investigation in MED 2006-145-L.

6. Respondent admits to the truth and accuracy of the factual representations made in the sections of this Settlement Agreement entitled "Uncontested Facts," and "Representations by Respondent."

7. Respondent admits that his conviction in the criminal matter for violations of the federal Controlled Substances Act constitutes a violation of HRS §453-8(a)(12)(Conviction of a penal offense substantially related to the qualifications, functions, or duties of a physician).

C. TERMS OF SETTLEMENT:

1. Revocation of License. Respondent agrees to the voluntary revocation of Respondent's medical license. The revocation shall take effect as of January 31, 2008. Respondent shall turn in all indicia of the license to the Executive Officer of the Board within ten (10) days after receipt of notice that this Settlement Agreement has been approved. Respondent represents that he has not practiced medicine in the State of Hawaii since January 30, 2008.

Respondent understands Respondent cannot apply for a new license until the expiration of at least five (5) years after the effective date of the revocation. Respondent must apply to the Board for a new license pursuant to and subject to HRS §§92-17, 436B-21, and all other applicable laws and rules in effect at the time.

2. Respondent agrees that, except for the representations, agreements and covenants contained in Paragraph C(4) below, this Settlement Agreement shall not be binding on any of the parties unless and until it is approved by the Board.

3. Respondent understands that any false or untrue statement or any material misrepresentation or omission of fact by Respondent in this Settlement Agreement may be grounds for further disciplinary action under HRS Chapters 436B and/or 453.

4. If the Board does not approve this Settlement Agreement, does not issue an order pursuant to the Settlement Agreement, or does not approve a lesser remedy but instead an administrative hearing is conducted against Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, Respondent agrees that neither he nor any attorney that he may retain, will raise as an objection in any administrative proceeding or in any judicial action, to the Board's proceeding against them, on the basis that the Board has become disqualified to consider the case because of its review and consideration of this Settlement Agreement.

Similarly, if the Board does not approve this Settlement Agreement, does not issue an order pursuant to the Settlement Agreement, or does not approve a lesser remedy but instead an administrative hearing is conducted against Respondent in the Board's usual and customary fashion pursuant to the Administrative Procedure Act, the parties agree that this Settlement Agreement will not be used or referred to by either party in any administrative proceeding or judicial action against Respondent's Hawaii medical license to prove liability for or invalidity of the claims that are the subject this Settlement Agreement.

5. It is agreed that any ambiguity in this Settlement Agreement is to be read in the manner that most completely protects the interests of the consuming public.

//

//

//


//

//

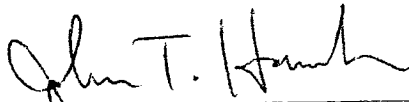
//

6. Other than the matters specifically stated in this Settlement Agreement, neither RICO nor anyone acting on its behalf has made any representation of fact, opinion or promise to Respondent to induce his entry into this Settlement Agreement, and Respondent is not relying upon any statement, representation or opinion or promise made by RICO or any of its agents, employees, representatives or attorneys concerning the nature, extent or duration of exposure to legal liability arising from the subject matter of this Settlement Agreement or concerning any other matter.

DATED: HONOLULU, Hawaii, MAY 24, 2008  
(City) (Date)

  
K.C. CLEMENT YEUNG, M.D.  
Respondent

DATED: Honolulu, Hawaii, JUN 03 2008


  
JOHN T. HASSLER  
Attorney for Department of  
Commerce and Consumer Affairs

APPROVED AS TO FORM:


  
KELVIN H. KANESHIRO, ESQ.  
Attorney for Respondent

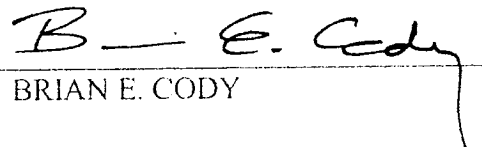
IN THE MATTER OF THE LICENSE TO PRACTICE MEDICINE OF K.C. CLEMENT  
YEUNG, M.D.; SETTLEMENT AGREEMENT PRIOR TO FILING OF PETITION FOR  
DISCIPLINARY ACTION AND BOARD'S FINAL ORDER; MED 2006-145-L

APPROVED AND SO ORDERED:  
BOARD OF MEDICAL EXAMINERS  
STATE OF HAWAII

  
H. ROGER NETZER, M.D. -  
Chairperson

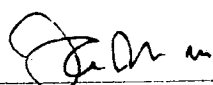
July 18, 2008  
DATE

  
MARIA BRUSCA PATTEN, D.O. -  
Vice-Chairperson

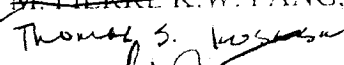
  
BRIAN E. CODY

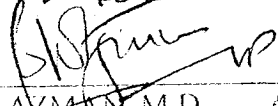
\_\_\_\_\_  
RONALD H. KIENITZ, D.O.

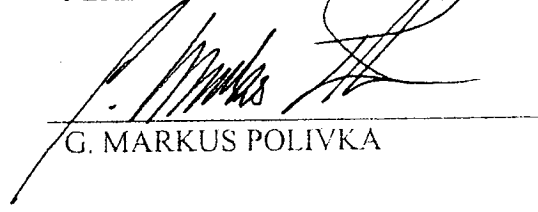
  
JOHN T. McDONNELL, M.D.

  
M. PIERRE K.W. PANG, M.D.

  
FEREYDOUN DON FARSA, M.D.

  
Thomas S. Koss

  
BEN K. AYMAN, M.D.

  
G. MARKUS POLIVKA

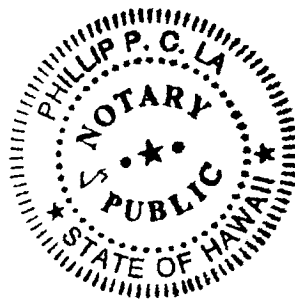
  
PETER A. MATSUURA, M.D.

\_\_\_\_\_  
DANNY M. TAKANISHI, JR.,  
M.D.

STATE OF HAWAII )  
 ) SS.  
CITY & COUNTY OF Honolulu )

On this 24<sup>th</sup> day of May, 2008, before me personally appeared  
K.C. CLEMENT YEUNG, M.D., to me known to be the person described in and who executed  
the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

Phillip P. C. La  
Name: Phillip P. C. La  
Notary Public, State of Hawaii



My Commission expires: 02/23/2011

# ORIGINAL SEALED

BY ORDER OF THE COURT

EDWARD H. KUBO, JR. 2499  
United States Attorney  
District of Hawaii

FLORENCE T. NAKAKUNI 2286  
Chief, Narcotics Section

THOMAS MUEHLECK 3591  
Assistant U.S. Attorney  
Room 6100, PJKK Federal Bldg.  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850  
Telephone: (808) 541-2850  
Facsimile: (808) 541-2958  
Tom.Muehleck@usdoj.gov

Attorneys for Plaintiff  
UNITED STATES OF AMERICA

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

MAR 29 2006

at O'clock and min M  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. <b>C R 0 6 0 0 1 7 9 H G</b>
	)	
Plaintiff,	)	INDICTMENT
	)	[21 U.S.C. § 841(a)(1) and
vs.	)	18 U.S.C. § 1347]
	)	
KACHUN CLEMENT YEUNG, M.D.,	)	
	)	
Defendant.	)	
_____	)	

## INDICTMENT

### Count 1

The Grand Jury charges that:

On or about November 15, 2001, in the District of  
Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of

EXHIBIT

"A"

professional medical practice and not for a legitimate medical purpose approximately 300 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 2

The Grand Jury further charges that:

On or about February 13, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 600 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 3

The Grand Jury further charges that:

On or about February 27, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 800 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 4

The Grand Jury further charges that:

On or about March 8, 2002, in the District of Hawaii,  
defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of  
professional medical practice and not for a legitimate medical  
purpose approximately 1,400 milligrams of Oxycodone, a Schedule  
II controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 5

The Grand Jury further charges that:

On or about March 18, 2002, in the District of Hawaii,  
defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of  
professional medical practice and not for a legitimate medical  
purpose approximately 1,100 milligrams of Oxycodone, a Schedule  
II controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 6

The Grand Jury further charges that:

On or about March 27, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 1,400 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 7

The Grand Jury further charges that:

On or about April 8, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 1,400 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 8

The Grand Jury further charges that:

On or about April 15, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and

intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 1,000 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 9

The Grand Jury further charges that:

On or about April 22, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 600 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 10

The Grand Jury further charges that:

On or about April 23, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 700 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 11

The Grand Jury further charges that:

On or about April 29, 2002, in the District of Hawaii,  
defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of  
professional medical practice and not for a legitimate medical  
purpose approximately 600 milligrams of Oxycodone, a Schedule II  
controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 12

The Grand Jury further charges that:

On or about April 30, 2002, in the District of Hawaii,  
defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of  
professional medical practice and not for a legitimate medical  
purpose approximately 700 milligrams of Oxycodone, a Schedule II  
controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 13

The Grand Jury further charges that:

On or about May 6, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 600 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 14

The Grand Jury further charges that:

On or about May 7, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 700 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 15

The Grand Jury further charges that:

On or about May 13, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and

intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose a quantity of Fentanyl, its isomers, esters, ethers salts of isomers, esters and ethers, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 16

The Grand Jury further charges that:

On or about May 14, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 600 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 17

The Grand Jury further charges that:

On or about May 20, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical

purpose approximately 600 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 18

The Grand Jury further charges that:

On or about May 21, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 700 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 19

The Grand Jury further charges that:

On or about May 31, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 900 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 20

The Grand Jury further charges that:

On or about May 31, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 1,400 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 21

The Grand Jury further charges that:

On or about June 14, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 800 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 22

The Grand Jury further charges that:

On or about June 14, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and

intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 1,400 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 23

The Grand Jury further charges that:

On or about June 21, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 800 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 24

The Grand Jury further charges that:

On or about June 24, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 800 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 25

The Grand Jury further charges that:

On or about July 3, 2002, in the District of Hawaii,  
defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of  
professional medical practice and not for a legitimate medical  
purpose approximately 300 milligrams of Oxycodone, a Schedule II  
controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 26

The Grand Jury further charges that:

On or about July 3, 2002, in the District of Hawaii,  
defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and  
intentionally distribute and dispense outside the course of  
professional medical practice and not for a legitimate medical  
purpose approximately 800 milligrams of Oxycodone, a Schedule II  
controlled substance.

All in violation of Title 21, United States Code,  
Section 841(a)(1).

Count 27

The Grand Jury further charges that:

On or about July 16, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 300 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 28

The Grand Jury further charges that:

On or about July 17, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 800 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 29

The Grand Jury further charges that:

On or about July 24, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and

intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose a quantity of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Count 30

The Grand Jury further charges that:

On or about July 31, 2002, in the District of Hawaii, defendant KACHUN CLEMENT YEUNG, M.D., did knowingly and intentionally distribute and dispense outside the course of professional medical practice and not for a legitimate medical purpose approximately 1,200 milligrams of Oxycodone, a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

Counts 31 to 46

The Grand Jury further charges that:

Introduction

At all times material to this Indictment:

1. Under the Social Security Act, the United States shares with the fifty states the cost of medical services provided to indigent families with dependent children, and to

aged, blind and disabled individuals whose income and resources are insufficient to meet the cost of medical services.

2. Medicaid is a federally assisted grant program for the states which enables the fifty states to provide medical assistance and related services to needy individuals. Within broad federal rules, each state decides: who is eligible for medicaid, the services covered, payment levels for services, and administrative and operation procedures.

3. The state directly pays the providers for Medicaid services, to wit the states obtaining the federal share of the payment from accounts drawn on funds of the United States Treasury.

4. The State of Hawaii participates in the Medicaid program and the United States provides funds to Hawaii through the Medicaid program.

5. Providers of medical services to Medicaid patients who participate in the Medicaid program are eligible for reimbursement for covered services from these funds by becoming a participating provider in Medicaid. Enrolled providers agree to abide by the rules regulations, policies and procedures governing reimbursement. Providers enrolled in the Hawaii Medicaid program agree not to accept remuneration, either in cash or in kind, directly from the patient for services rendered.

6. Defendant KACHUN CLEMENT YEUNG, was licensed to practice medicine in the State of Hawaii, operated the Family Care and Personal Injury Center, Inc., in Honolulu, Hawaii, was enrolled as a participating provider in the Hawaii Medicaid program and was authorized by the United States Drug Enforcement Administration to dispense Scheduled II controlled substances within the course of professional medical practice and for a legitimate medical purpose.

The Scheme and Artifice to Defraud

7. Beginning on or about February 27, 2002 and continuing through in or about July 2002, in the District of Hawaii and elsewhere, defendant KACHUN CLEMENT YEUNG knowingly devised and intended to devise a scheme and artifice to defraud and to obtain money from the Hawaii State Medicaid program by means of materially false and fraudulent pretenses, representations and promises, as well as omissions of material facts, well knowing at the time that such pretenses, representations, promises and omissions would be and were false when made. Such materially false statements, representations, promises and omissions included the following:

a. Defendant KACHUN CLEMENT YEUNG submitted health insurance claim forms to and billed the Hawaii State Medicaid program for procedures, services or supplies that had already been paid for by the patient or on behalf of the patient while

falsely representing that no amount of monies had already been paid for the procedures, services or supplies provided to the patient.

8. On or about the dates set forth below, in the District of Hawaii and elsewhere, defendant KATCHUN CLEMENT YEUNG did knowingly execute and attempt to execute, the aforesaid scheme and artifice to defraud by presenting the following health insurance claim forms to the Hawaii State Medicaid program for payment, with each such claim constituting a separate count of this Indictment:

<u>Count</u>	<u>Date of Claim Form</u>	<u>Amount Billed for Procedures, Services or Supplies</u>
31	February 27, 2002	\$ 83.33
32	March 8, 2002	\$ 83.33
33	March 19, 2002	\$ 83.33
34	March 30, 2002	\$ 83.33
35	April 8, 2002	\$135.42
36	April 16, 2002	\$135.42
37	April 22, 2002	\$145.83
38	April 30, 2002	\$135.42
39	May 7, 2002	\$135.42
40	May 13, 2002	\$145.83
41	May 21, 2002	\$145.83
42	June 3, 2002	\$145.83
43	June 14, 2002	\$145.83

44	June 24, 2002	\$145.83
45	July 3, 2002	\$ 52.08
46	July 12, 2002	\$208.33
47	July 17, 2002	\$ 83.33
48	July 17, 2002	\$ 62.50
49	July 26, 2002	\$ 83.33


All in violation of Title 18, United States Code,  
Section 1347.

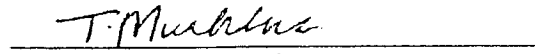
DATE: March 29, 2006, Honolulu, Hawaii.

A TRUE BILL

/s/ Foreperson  
FOREPERSON, GRAND JURY

EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

  
FLORENCE T. NAKAKUNI  
Chief, Narcotics Section

  
THOMAS MUEHLECK  
Assistant U.S. Attorney

United States v. Kachun Clement Yeung, M.D.  
Cr. No. \_\_\_\_\_  
INDICTMENT

ORIGINAL

EDWARD H. KUBO, JR. #2499  
United States Attorney  
District of Hawaii

FLORENCE T. NAKAKUNI #2286  
Chief, Narcotics Section

JONATHAN M. F. LOO  
Assistant U.S. Attorney  
Room 6100, PJKK Federal Building  
300 Ala Moana Boulevard  
Honolulu, Hawaii 96850  
Telephone: (808) 541-2850  
Facsimile: (808) 541-2958  
E-mail: jonathan.loo@usdoj.gov

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

FEB 23 2007

at 11 o'clock and 20 a.m. M  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

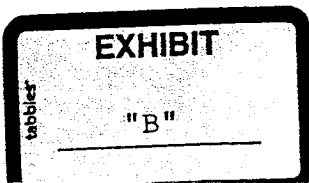
UNITED STATES OF AMERICA,	)	CR. NO. 06-00179 HG
	)	
Plaintiff,	)	MEMORANDUM OF PLEA AGREEMENT
	)	
vs.	)	Date: February 23, 2007
	)	Time: 11:00 a.m.
KACHUN CLEMENT YEUNG, M.D.,	)	Judge: Hon. Kevin S. C. Chang
	)	
Defendant.	)	
	)	

MEMORANDUM OF PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the UNITED STATES OF AMERICA, by its attorney, the United States Attorney for the District of Hawaii, and the Defendant, KACHUN CLEMENT YEUNG, M.D., and his Counsel, John P. Flannery, II, have agreed upon the following:

1. Defendant acknowledges that he has been charged in the Indictment with violating Title 21, United States Code,

ATTEST: A True Copy  
SUE BEITIA  
Clerk, United States District  
Court, District of Hawaii  
By [Signature]  
Deputy



Sections 841(a)(1), and Title 18, United States Code, Section 1347.

2. Defendant has read the charges against him contained in the Indictment, and those charges have been fully explained to him by his Counsel.

3. Defendant fully understands the nature and elements of the crimes with which he has been charged.

4. Defendant will enter voluntary pleas of guilty to Counts 22 and 23 of the Indictment charging him with distributing and dispensing 1,400 milligrams of Oxycodone outside the course of professional medical practice and not for a legitimate medical purpose (Count 22) and distributing and dispensing 800 milligrams of Oxycodone outside the course of professional medical practice and not for a legitimate medical purpose (Count 23). Defendant and the prosecution agree that these two counts and a third count (Count 20) involving the same undercover agent comprise the relevant conduct in this case. The prosecution agrees to move to dismiss the remaining counts of the Indictment (other than Counts 22 and 23) as to Defendant after sentencing. The prosecution further agrees not to bring any additional charges in the District of Hawaii against the Defendant arising out of Defendant's activities of which the prosecution is aware as of the date of the

execution of this agreement regarding his treatment of existing patients.

5. Defendant agrees that this Memorandum of Plea Agreement shall be filed and become part of the record in this case.

6. Defendant enters these pleas because he is in fact guilty of distributing and dispensing Oxycodone outside the course of professional medical practice and not for a legitimate medical purpose as charged in Counts 22 and 23 of the Indictment, and agrees that these pleas are voluntary and not the result of force or threats. Defendant further agrees that he will surrender his DEA controlled substance registration and consent to its revocation. Defendant, a foreign national, further agrees and consents to be removed from the United States, as set forth below, and to waive any objections to said removal.

7. Defendant understands that the penalties for the offenses to which he is pleading guilty include:

a. up to 20 years imprisonment and a fine of up to \$1,000,000, plus a term of supervised release of not less than three years and up to life,

b. At the discretion of the Court, defendant may also be denied any or all federal benefits, as that term is defined in 21 USC §862, (a) for up to five years if this is

defendant's first conviction of a federal or state offense consisting of the distribution of controlled substances, or (b) for up to ten years if this is defendant's second conviction of a federal or state offense consisting of the distribution of controlled substances. If this is defendant's third or more conviction of a federal or state offense consisting of the distribution of controlled substances, the defendant is permanently ineligible for all federal benefits, as that term is defined in 21 USC §862(d).

In addition, the Court must impose a \$100 special assessment as to each count to which the Defendant is pleading guilty. Defendant agrees to pay \$100 for each count to which he is pleading guilty to the District Court's Clerk's Office, to be credited to said special assessments, before the commencement of any portion of sentencing. Defendant acknowledges that failure to make such full advance payment in a form and manner acceptable to the prosecution will allow, though not require, the prosecution to withdraw from this agreement at its option.

8. Defendant admits the following facts and agrees that they are not a detailed recitation, but merely an outline of what happened in relation to the charge to which Defendant is pleading guilty:

a. On June 14, 2002, at approximately 7:15 p.m., the defendant met with an undercover DEA agent in the parking lot at Panya Bakery on Auahi Street and prescribed 1,400 milligrams of Oxycodone (seventy - 20 milligram tablets). The undercover agent had met with the defendant on prior occasions, and the defendant believed him to be a patient named Jimmy Chang. The defendant drove to the meeting in his vehicle. The defendant met with the undercover agent for approximately five minutes in his vehicle. After the prescription was written, defendant requested payment of \$350.00. The agent paid the defendant \$400.00 in undercover funds for which no receipt for payment was issued.

b. On June 21, 2002, at approximately 6:47 p.m., the defendant met with the same undercover DEA agent in the parking garage of Queen's Hospital and prescribed 800 milligrams of Oxycodone (forty - 20 milligram tablets). The defendant met with the undercover agent for approximately ten minutes next to his vehicle in the garage. After the prescription was written, the defendant and the undercover agent agreed on a \$450.00 payment for the "house call." The agent paid the defendant \$450.00 in undercover funds for which no receipt for payment was issued.

9. Pursuant to CrimLR32.1(a) of the Local Rules of the United States District Court for the District of Hawaii, the

parties agree that the charges to which the Defendant is pleading guilty adequately reflect the seriousness of the actual offense behavior and that accepting this Agreement will not undermine the statutory purposes of sentencing.

10. Pursuant to CrimLR32.1(b) of the Local Rules of the United States District Court for the District of Hawaii and Section 6B1.4 of the Sentencing Guidelines, the parties stipulate to the following for the purpose of the sentencing of Defendant in connection with this matter:

a. Prosecution recommendations: Based upon information presently known to the prosecution, as of the date of the execution of this Agreement, the United States will recommend that the Court impose a sentence at the bottom of the applicable advisory Sentencing Guideline range as determined by the Court.

b. The United States Attorney agrees that Defendant's agreement herein to enter into a guilty plea constitutes notice of intent to plead guilty in a timely manner, so as to permit the government to avoid preparing for trial as to Defendant. Accordingly, the United States Attorney anticipates moving in the Government's Sentencing Statement for a one-level reduction in sentencing offense level pursuant to Guideline § 3E1.1(b)(2), if defendant is otherwise eligible.

The Defendant understands that notwithstanding its present intentions, and still within the Agreement, the prosecution reserves the rights (1) to argue to the contrary in the event of receipt of new information relating to those issues, and (2) to call and examine witnesses on those issues in the event that either the probation office finds to the contrary of the prosecution's intentions or the Court requests that evidence be presented on those issues.

c. The base offense level applicable to the Defendant is level 18 pursuant to Guideline § 2D1.1 since the offenses of conviction, Counts 22 and 23 of the Indictment, and the relevant conduct identified in Count 20, when combined together, involve the distribution of 3,600 milligrams of Oxycodone.

d. The Defendant played no aggravating or mitigating role in the offenses of conviction within the meaning of Guideline §§ 3B1.1 and 3B1.2.

e. The Defendant's agreement to surrender his DEA controlled substance registration and his agreement to be removed from the United States, as further set out below, warrants a downward variance of two levels.

f. While Defendant's office and the transactions may be near a "protected location" as defined in 21

USC §860, the offenses of conviction did not occur at a "protected location", nor did they involve underage or pregnant individuals and thus the upward adjustment provided for in Guideline § 2D1.2 is inapplicable.

g. Defendant abused a position of trust or used a special skill in the manner contemplated by the guidelines in Guideline § 3B1.3, and a two-level upward adjustment is therefore warranted.

h. If the defendant meets the criteria set forth in Title 18, United States Code, Section 3553(f)(1)-(5) and Guideline § 5C1.2(a)(1)-(5), the prosecution agrees to recommend a two-level downward adjustment pursuant to Guideline § 2D1.1(b)(9) applies.

11. The parties agree that notwithstanding the parties' Agreement herein, the Court is not bound by any stipulation entered into by the parties but may, with the aid of the presentence report, determine the facts relevant to sentencing.

12. The Defendant is aware that he has the right to appeal the sentence imposed under Title 18, United States Code, Section 3742(a). Defendant knowingly waives the right to appeal, except as indicated in subparagraph "b" below, any sentence within the maximum provided in the statute(s) of

conviction or the manner in which that sentence was determined on any of the grounds set forth in Section 3742, or on any ground whatever, in exchange for the concessions made by the prosecution in this plea agreement.

a. The Defendant also waives his right to challenge his sentence or the manner in which it was determined in any collateral attack, including, but not limited to, a motion brought under Title 28, United States Code, Section 2255, except that defendant may make such a challenge (1) as indicated in subparagraph "b" below, or (2) based on a claim of ineffective assistance of counsel.

b. If the Court imposes a sentence greater than specified in the guideline range determined by the Court to be applicable to the Defendant, the Defendant retains the right to appeal the portion of his sentence greater than specified in that guideline range and the manner in which that portion was determined under Section 3742 and to challenge that portion of his sentence in a collateral attack.

c. The prosecution retains its right to appeal the sentence and the manner in which it was determined on any of the grounds stated in Title 18, United States Code, Section 3742(b).

13. The Defendant understands that the District Court in imposing sentence will consider the provisions of the Sentencing Guidelines. The Defendant agrees that there is no promise or guarantee of the applicability or nonapplicability of any Guideline or any portion thereof, notwithstanding any representations or predictions from any source.

14. The Defendant understands that this Agreement will not be accepted or rejected by the Court until there has been an opportunity by the Court to consider a presentence report, unless the Court decides that a presentence report is unnecessary. The Defendant understands that the Court will not accept an agreement unless the Court determines that the remaining charges adequately reflect the seriousness of the actual offense behavior and accepting the agreement will not undermine the statutory purposes of sentencing.

15. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. If Defendant persisted in a plea of not guilty to the charges against him he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by a judge sitting without a jury. The Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the Defendant,

the prosecution and the judge all must agree that the trial be conducted by the judge without a jury.

b. If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. Defendant and his Counsel would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the Defendant is presumed innocent, and that it could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt.

c. If the trial is held by a judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not he or she was persuaded of the Defendant's guilt beyond a reasonable doubt.

d. At a trial, whether by a jury or a judge, the prosecution would be required to present its witnesses and other evidence against the Defendant. Defendant would be able to confront those prosecution witnesses and his Counsel would be able to cross-examine them. In turn, Defendant could present witnesses and other evidence on his own behalf. If the

witnesses for the Defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court.

e. At a trial, the Defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify.

f. At a trial, Defendant would have a right to have the jury determine beyond a reasonable doubt the quantity and weight of the controlled substances charged in the indictment.

16. Defendant understands that by pleading guilty, he is waiving all of the rights set forth in the preceding paragraph. Defendant's Counsel has explained those rights to him, and the consequences of the waiver of those rights.

17. Defendant acknowledges that as a result of this guilty plea, he is removable from the United States and agrees not to contest any removal proceedings brought against him by the Department of Homeland Security (DHS). If the DHS files a Notice to Appear or other administrative charging document, the Defendant agrees to request an expedited removal hearing and to consent to removal. Defendant acknowledges that by consenting to removal, he will be immediately removed from the United

States upon the completion of any period of incarceration.

Defendant knowingly waives any and all rights to appeal, reopen, reconsider, or otherwise challenge this removal.

18. By the terms of this plea agreement, there will be an order expressly providing for deportation and, consistent with that process, Defendant agrees to waive his rights to apply for any and all forms of relief or protection from removal, deportation, or exclusion under the Immigration and Nationality Act (as amended) and related federal regulations which Defendant may now hold. These rights include, but are not limited to, the ability to apply for the following forms of relief or protection from removal: (a) voluntary departure; (b) asylum; (c) withholding of deportation or removal; (d) cancellation of removal; (e) suspension of deportation; (f) adjustment of status; and (g) protection under Article 3 of the Convention Against Torture. As part of this agreement, the Defendant specifically acknowledges and states that he has not been persecuted in, and has no present fear of persecution in Canada on account of race, religion, nationality, membership in a particular social group or political opinion. Similarly, Defendant further acknowledges and states that he has not been tortured in, and has no present fear of torture in Canada.

19. Defendant agrees that upon entry of this plea agreement, he abandons (1) any existing immigration benefit that he may now hold and (2) any application for relief from removal, deportation, or exclusion he may have filed prior to the completion of this plea agreement. Defendant further agrees not to file or prosecute any application for relief from removal, deportation, or exclusion, either written or oral, before any federal court, the Board of Immigration Appeals, an immigration judge, or DHS, prior to his removal from the United States.

20. Defendant agrees to assist the DHS in the execution of his removal. Specifically, Defendant agrees to assist the DHS in the procurement of any travel or other documents necessary for the Defendant's removal; to meet with and to cooperate with representatives of the country or countries to which the Defendant's removal is directed; and to execute those forms, applications, or waivers needed to execute or expedite the Defendant's removal. Defendant intends to comply and fully understands that his failure or refusal to assist the DHS in the execution of his removal would constitute a breach of this plea agreement and might subject him to criminal penalties under Title 8, United States Code, Section 1253.

21. Defendant agrees that he intends the agreements contained in this plea agreement to be binding upon him during any removal proceeding that may be instituted against him as a result of this plea agreement. In particular, Defendant acknowledges and agrees that the agreements concerning removal contained in the plea agreement were entered into by the Defendant and the United States with the express understanding that the agreements are binding for purposes of any future removal proceeding before the Board of Immigration Appeals, an immigration judge, or the DHS.

22. Defendant and his Counsel acknowledge that no threats, promises, or representations have been made, nor agreement reached, other than those set forth in this Agreement, to induce Defendant to plead guilty.

23. Should the Court refuse to accept this Agreement, it is null and void and neither party shall be bound thereto. The parties understand that the Court's rejection of any stipulation between the parties does not constitute a refusal to accept this Agreement since the Court is expressly not bound by stipulations between the parties.

24. Defendant understands that the prosecution will apprise the Court and the United States Probation Office of the nature, scope and extent of Defendant's conduct regarding the


charges against him, related matters, and any matters in  
aggravation or mitigation relevant to the issues involved in  
sentencing.

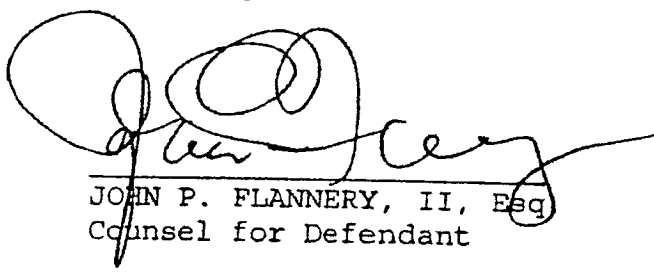
DATED: Honolulu, Hawaii, \_\_\_\_\_.

AGREED:

EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

  
KACHUN CLEMENT YEUNG, M.D.  
Defendant

  
FLORENCE T. NAKAKUNI  
Chief, Narcotics Section

  
JOHN P. FLANNERY, II, Esq  
Counsel for Defendant

  
JONATHAN M. F. LOO  
Assistant U.S. Attorney

ORIGINAL

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAIIUnited States District Court  
District of Hawaii

SEP 10 2007

at 3 o'clock and 40 min. P.M.  
SUE BEITIA, CLERKUNITED STATES OF AMERICA  
v.  
KACHUN CLEMENT YEUNG, M.D.

## JUDGMENT IN A CRIMINAL CASE

Case Number: 1:06CR00179USM Number: 95616-022

John P. Flannery, Esq.

Defendant's Attorney

## THE DEFENDANT:

- ☒ pleaded guilty to Counts: 22 and 23 of the Indictment.  
☐ pleaded nolo contendere to counts(s) \_\_\_ which was accepted by the court.  
☐ was found guilty on count(s) \_\_\_ after a plea of not guilty.

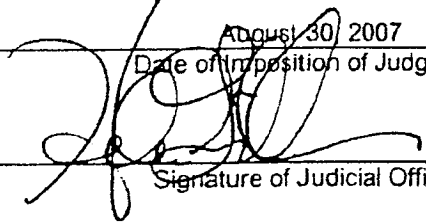
The defendant is adjudicated guilty of these offenses:

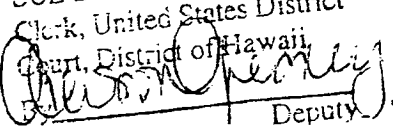
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
See next page.			

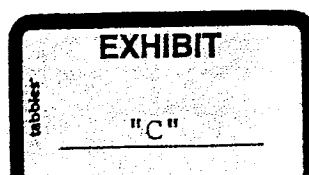
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on counts(s) \_\_\_ and is discharged as to such count(s).  
☒ Counts 1-21, 24-30, 31-49 of the Indictment are dismissed on the motion of the United States.

It is further ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 30, 2007  
 Date of Imposition of Judgment  
  
 Signature of Judicial Officer  
 HELEN GILLMOR, Chief United States District Judge  
 Name & Title of Judicial Officer  
9.7.07  
 Date

ATTEST: A True Copy  
 SUE BEITIA  
 Clerk, United States District  
 Court, District of Hawaii  
  
 Deputy



CASE NUMBER: 1:06CR00179

Judgment - Page 2 of 7

DEFENDANT: KACHUN CLEMENT YEUNG, M.D.

ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1)	Distribution of Oxycodone	06/14/2002	22
21 U.S.C. § 841(a)(1)	Distribution of Oxycodone	06/21/2002	23

CASE NUMBER: 1:06CR00179  
DEFENDANT: KACHUN CLEMENT YEUNG, M.D.

Judgment - Page 3 of 7

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: ONE YEAR AND ONE DAY, as to Counts 22 and 23, such terms to run concurrently.

☒ The court makes the following recommendations to the Bureau of Prisons: FDC-Honolulu.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district.

☐ at \_\_\_ on \_\_\_.

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at FDC-Honolulu:

☒ before 2:00 p.m. on 10/11/2007.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Officer.

### RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

CASE NUMBER: 1:06CRO0179  
DEFENDANT: KACHUN CLEMENT YEUNG, M.D.

Judgment - Page 4 of 7

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 YEARS as to Counts 22 and 23, such terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

That the defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of commencement on supervision and at least two periodic drug tests thereafter, but not more than 8 valid drug tests per month during the term of supervised release.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon (Check if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

CASE NUMBER: 1:06CR00179  
DEFENDANT: KACHUN CLEMENT YEUNG, M.D.

Judgment - Page 5 of 7

### SPECIAL CONDITIONS OF SUPERVISION

1. That the defendant execute all financial disclosure forms, and provide the Probation Office and the Financial Litigation Unit of the U.S. Attorney's Office access to any requested financial information to include submitting to periodic debtor's examinations as directed by the Probation Office.
2. That the defendant participate in a mental health program at the discretion and direction of the Probation Office.
3. That the defendant submit to removal proceedings, including deportation or exclusion, as required by the Department of Homeland Security. The defendant shall not enter the United States without proper written authorization.
4. That the defendant surrender his DEA controlled substance registration, at the direction of the Probation Office.

CASE NUMBER: 1:06CR00179  
DEFENDANT: KACHUN CLEMENT YEUNG, M.D.

Judgment - Page 6 of 7

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 200.00	\$ 10,000.00	\$

☐ The determination of restitution is deferred until . An Amended Judgment in a Criminal Case (AO245C) will be entered after such a determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. §3664(i), all non-federal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	--------------------	----------------------------	-------------------------------

TOTALS	\$ _	\$ _	
--------	------	------	--

☐ Restitution amount ordered pursuant to plea agreement \$ \_

☐ The defendant must pay interest on restitution and a fine of more than \$2500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

CASE NUMBER: 1:06CR00179  
DEFENDANT: KACHUN CLEMENT YEUNG, M.D.

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ \_ due immediately, balance due  
☐ not later than \_ , or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below, or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_ (e.g., weekly, monthly, quarterly) installments of \$ \_ over a period of \_ (e.g., months or years), to commence \_ (e.g., 30 or 60 days) after the date of this judgment ; or
- D ☐ Payment in equal \_ (e.g., weekly, monthly, quarterly) installments of \$ \_ over a period of \_ (e.g., months or years), to commence \_ (e.g., 30 or 60 days) after the release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
  
\$10,000, payable within 14 days of sentencing.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several  
  
Defendant and Co-Defendant Names and Case Numbers (including defendant number, Total Amount, Joint and Several Amount, and corresponding pay, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.